CHAPTER - III

CONCEPT AND SCOPE OF RELIGION IN A SECULAR COUNTRY

The term “religion” is a dynamic concept. It varies from time to time and country to country. However, the term “religion” has neither been defined in the Constitution of India nor under any other Statute.

CONCEPT OF RELIGION:

The Encyclopedia of Religion and Ethics refers to religion to denote certain characteristic types of data (beliefs, practices, feelings, moods), attitudes etc.1 According to the Blackwell dictionary of Modern Social Thought, the term ‘religion’ refers to institutionalized dispositions and actions relative to the sacred – a dimension of life that is felt to be incommensurately more profound, powerful and significant that the everyday or mundane2. There is wide variation in the social forms through which religion articulates ideas about the sacred, and the sedimentation of these ideas in cultural, experiential and social forms over long periods of time has helped to establish religion as a powerful and enduring institution in virtually all known societies.

Paul Tillich defines religion as “that which is concerned with the ultimate”3. Neil A. Macdonald spoke in terms of universality of religion when he observes:

“Religion deals with the absolute in life. But the very act of conceiving an absolute draws with it a perception of the nature of the absolute. And since this absolute cannot be known through the sense or through reason, individuals are bound to have different ideas about it, based to some extent on their experience. This is why men disagree about the nature of God and what God requires of man.”

Religion (Religio) virtue, as founded on reverence of God, and expectations of future rewards and punishments; a system of Divine faith and worship as opposed to others (johns). That habit of reverence towards the divine nature,

1 Vol. 10, P. 662.
whereby we are enabled and inclined to serve and worship him, after such a manner as we conceive most acceptable to him, is called religion\textsuperscript{1}.

What is religion? Is it not what a man honestly believes in and approves of and thinks it is duty to inculcate on others, whether with regard to this world or the next? A belief in any system of retribution by an overruling power. It must, I think include the principle of gratitude to an active power who can confer blessings\textsuperscript{2}.

In all countries the word “religion” is ordinarily understood to mean some system of faith and practice resting on the idea of the existence of one God, the creator and ruler, to whom his creatures owe obedience and love.

Religion is morality, with a sanction drawn from a future state of rewards and punishments.

The word “religion” in its primary sense imports, as applied to moral questions, only a recognition of a conscious duty to obey restraining principles of conduct. In such sense we suppose there is no one who will admit that he is without religion.

By the generic word “religion” is not meant the Christian religion or Bible religion, but it means the religion of man, and not the religion of any class of men\textsuperscript{3}.

Judaism, Christianity and Islam tend to maintain a clear distinction between the sacred and the secular, treating them as categorically separate domains. But Hinduism, Buddhism, Shinto and numerous indigenous cultures regard the sacred as an immanent quality of all existence. Nevertheless, all religions symbolize and ‘manage’ the points of disjunction or continuity between the secular and sacred registers of meaning with the aid of myth, symbol, ritual; sacred text and distinctive concepts of sacred space, time, community and being.

Western thinkers of the late nineteenth century, the tendency in recent decades has been to prefer definitions which are more nuance and more sensitive to the growing body of knowledge about cultures other than those dominated by Christianity, Judaism or Islam and about the varieties of religious expression at

\textsuperscript{1} Tomlins Law Dictionary
\textsuperscript{2} Per Willes, J., Barter V. Langley, 38 LJMC5.
\textsuperscript{3} P. Ramanatha Aiyar, Law Lexicon, 2nd Reprint 1999 Wadhwa and Company, Nagpur.
different levels of culture. Thus, whereas the founding generations of anthropologists and sociologists seemed content to reduce religion to ‘a general theory of the world’ (K. Marx), ‘belief in spiritual beings’ (E. Tylor), or propitiation or conciliation of powers superior to human (J. Frazer), it is now common for social scientists to adopt a more relativistic and less intellectualistic approach.¹

The twentieth century witnessed the maturation of academic disciplines that constituted religion in rather distinctive ways. Older disciplines such as the History of Religions, ‘Theology and Comparative Religion tend to accord priority to philological, historical, philosophical and doctrinal aspects. But the growing influence of phenomenological thinking in the 1930s inspired more intuitive studies of religious experience, ritual, sacredness and the holy (see Otto, 1917; Van der Lccuw, 1938; Eliade, 1958). Meanwhile, psychological and psychoanalytical approaches found favor, especially among practitioners involved in training religious professionals for liturgical, counseling and social service functions (see Rieff, 1966). The influence of sociological thought increased dramatically in the 1960s when liberal American denominations were about to lose some of their popularity (Berger, 1961) and when, unexpectedly, conservative churches and allegedly deviant new religious movements were beginning to grow in size and public impact (Kelley, 1972; Stark and Finke, 2000). But it was the vogue for structuralism in the human sciences that probably gave most prominence to the study of religion in the forms of myth, ritual, symbolism and processes of sacralization. Finally, Religious Studies, as a deliberately interdisciplinary approach began to flourish in the 1970s and fostered, in particular, a more critical attitude towards methodological issues as well as a more policy-oriented stance both in the increasingly multicultural and ethnically diverse context of advanced industrial societies and in former colonies rediscovering their religious heritage.²

The word ‘religion’ has not been defined in the Constitution and indeed it is a term which is hardly susceptible of any rigid definition. In reply to a question on

Dharma by Yaksha, Dharmaraja Yudhisthira said thus:

तकैप्रतिष्ठेषु श्रुतयो विभिन्ना

नैको अस्त्यिक्षयः मर्त्यः प्रमाणां।

धर्मस्य ततः निहितं गुहायां

महाजनो भेन गतः स पन्था॥

Mahabharat - Aranyakaparvam 313.117.

(Formal logic is vascillating. Srutis are contradictory. There is no single rishi whose opinion is final. The principle of Dharma is hidden in a cave. The path of the virtuous persons is the only proper course.)

The expression ‘Religion’ has, however, been sought to be defined as given below:

“Religion is morality, with a sanction drawn from a future state of rewards and punishments.

“The term ‘religion’ and ‘religious’ in ordinary usage are not rigid concepts.

‘Religion’ has reference to ones views of his relations to his Creator and to the obligations they impose of reverence for his being and character and of obedience to his will.

“The word ‘religion’ in its primary sense (from ‘religare’, to rebind-bind back), imports, as applied to moral questions, only a recognition of a conscious duty to obey restraining principles of conduct. In such sense we suppose there is no one who will admit that he is without religion.

“ ‘Religion’ is bond uniting man to God, and virtue whose purpose is to render God worship due him as source of all being and principle of all government of things.

“ ‘Religion’ has reference to man’s relation to divinity; to the moral obligation of reverence and worship, obedience, and submission. It is the recognition of God as an object of worship, love and obedience; right

1 Words and Phrases, Permanent Edn. 36A, P. 461.
feelings towards God as highly apprehended.

" 'Religion' means the service and adoration of God or a God expressed in forms of worship; an apprehension, awareness, or conviction of the existence of a Supreme Being; any system of faith, doctrine and worship, as the Christian religion the religions of the Orient; a particular system of faith or worship¹.

"The term 'religion' as used in tax exemption law, simply includes: (1) a belief, not necessarily referring to super-natural powers; (2) a cult, involving a gregarious association openly expressing the belief; (3) a system of moral practice directly resulting from an adherence to the belief; and (4) an organization within the cult designed to observe the tenets or belief, the content of such belief being of no moment.

"While 'religion' in its broadest sense includes all forms of belief in the existence of superior beings capable of exercising power over the human race, as commonly accepted it means the formal recognition of God, as members of societies and associations, and the term, 'a religious purpose', as used in the constitutional provision exempting from taxation property used for religious purposes, means the use of property by a religious society or body of persons as a place for public worship.

" 'Religion' is squaring human life with superhuman life. Belief in a superhuman power and such an adjustment of human activities to the requirements of that power as may enable the individual believer to exist more happily to common to all 'religions'. The term 'religion' has reference to one's views on his relations to his Creator, and to the obligations they impose of reverence for His being and character and obedience to his will.

"The term 'religion' has reference to one's views of his relations to his Creator, and to the obligations they impose of reverence for his being and character, and of obedience to his will. With man's relations to his Maker and the obligations he may think they impose, and the manner in

¹ S.P. Mittal v. Union of India, AIR 1983 SC 1 at P. 20
which an expression shall be made by him of his belief on those subjects, no interference can be permitted, provided always the laws of society, designed to secure its peace and prosperity, and the morals of its people, are not interfered with."

These terms have also been judicially considered in the Commissioner, Hindu Religious Endowments, Madras v. Sri Lakhmindra Thirtha Swamiar of Sri Shirur Mutt\(^1\) wherein the following proposition of law have been laid down:

1. Religion means “a system of beliefs or doctrines which are regarded by those who profess that religion as conducive to their spiritual well-being”.

2. A religion is not merely an opinion, doctrine or belief. It has its outward expression in acts as well.

3. Religion need not be theistic.

CONCEPT OF DHARMA UNDER HINDU RELIGION

When we think of ancient Hindu concept of Dharma, it does not coincide with the English term ‘religion’ in an anthropological sense. Religion denotes a belief in supernatural beings, but the concept of Dharma has a much wider connotation and the English term may seem to be nothing more than parochial.

In fact, word Dharma has protean significance and different shades of meaning are attributed to it.

To begin with the etymology. Dharma is derived from the root word dhri (ṣ) meaning to ‘uphold’, ‘sustain’ and ‘nourish’.

Dharma also meant the various duties and rules laid down by the Shastras for the various castes and communities in the country. In this context, the word has been used in such compounds as Swadharma, Varnadharma and Jatidharma, or Pashanda Dharma which generally denotes the traditional observances of various communities.\(^2\)

Speaking from the point of view of the components of Dharma. Manu

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1 (1954) SCR 1005 : (AIR 1954 SC 282)
2 K.N. Sahay, Social Anthropology in India, Commonwealth Publishers, 1999 P.11
refers to ten characteristics in the following verse:

“दृष्टि: क्षमा दया स्त्रीस्य शौचममित्रस्यन्ध्राह।
धीरजित्य सद्यमक्रोधे द्यासदुर्धर्मलक्षणान्॥”

(मनुस्मृति, 6/92)

These characteristics are: patience, forgiveness, detachment, non-stealing, purity, control over sense-organs of the body, self-knowledge, science of consciousness, truth, and non-anger.

Man is one of the animals as he possesses certain instincts, tendencies and desires in common with animals. A famous Sanskrit verse points out at it:

“आहारनिष्ठ्रूपपूर्वैः च सामानार्थामात्रं प्रेमित्रस्यानाम।
धर्माः हि तेषामविषयः विशेषः धर्मेन हीना: प्रेमित्रस्मात्॥”

(Eating, sleeping, fear and copulation are common to men with animals. What is special in men is Dharma. Devoid of Dharma they become equal to animals) (Iyer, 1969:2).

The observance of Dharma is based upon the possession of five qualities of truth, spirituality, control of the senses and mind, and charity.

The word Satya and Dharma are found together in the following lines in the Taittiriya Upanishad: “सत्यं वद । धर्मम् चर ॥”

Bhadaranyakopanishad also clearly points out the intimate connections between Satya and Dharma. While commenting upon this Sanskrit text, Shankara explains that “Satya is the speaking of truth while Dharma is the observance of truth in action”.

According to Indian thinkers, Dharma and truth are interchangeable words. In Mahabharat, Santi Parva, Vyas declares that the principles of Dharma have been enunciated for the sake of nonviolence towards all beings. Whatever is imbued with the spirit of non-violence is Dharma. He goes even to the extent of saying that non-violence is the highest Dharma:

1 K.N. Sahay, Social Anthropology in India, Commonwealth Publishers, 1999 P.11
It was essential to ensure the stability of society not by the strength or power of the ruler or of the state, but by the inherent effect of self-control, exercised by every individual in his observance of Dharma. Thus, by the exercise of self-control and observance of his duties by every individual to his fellow beings human society is freed from the strong man’s tyranny, the oppressors wrongs and the proud man’s contumely. It leads to love and friendliness for others and an ardent desire of contributing to the welfare and prosperity of mankind in general. By Dharma is therefore meant ‘Duty’. The individual’s duty to his family, to his society, to God, to his own higher self, are all his Dharma.¹

The Supreme Court of India has various occasions to deal with the issues related to concept and scope of religion/term ‘secular’:

Religion is a social system in the name of God laying down the code of conduct for the people in society. Religion is a way of life in India and it is an unending discovery into the unknown world. People living in society have to follow some sort of religion. It is a social institution and society accepts religion in a form which it can easily practise. George Bernard Shaw stated, “There is nothing that people do not believe if only it be presented to them as science and nothing they will not disbelieve if it is presented to them as religion.” Essentially, religion is based on “faith”. Some critics say that religion interferes with science and faith. They say that religion leads to the growth of blind faith, magic, sorcery, human sacrifices, etc. No doubt, the history of religion shows some indications in this direction but both science and religion believe in faith. Faith in religion influences the temperament and attitude of the thinker. Ancient civilization viz. the Indus Valley civilization shows faith of people in Siva and Sakthi. The period of Indus Valley civilization was fundamental religion and was as old as at least the Egyptian and Mesopotamian cultures. People worship Siva and the trishul (trident), the emblem of Siva which was engraved on several seals. People also worshipped stones, trees, animals and fire. Besides, worship of stones, trees, animals, etc. by the primitive religious tribes shows that animism viz. worship of trees, stones, animals was practiced on the strong belief that they were abodes of spirits, good or evil.

Modern Hinduism to some extent includes Indus Valley civilization culture and religious faith. Lord Siva is worshipped in the form of linga. Many symbols have been used in Hindu literature. Different kinds of symbols and images have different sanctity. Baring of chest, arms and other parts of body represent the weapons of symbols of Siva. Modern Hinduism has adopted and assimilated various religious beliefs of primitive tribes and people. The process of worship has undergone various changes from time to time.¹

It is generally accepted that Religion has a very important place in human life. It has become a social force and is essential for man and society. Dr. Ambedkar had also fully supported this view, and he agreed with Edmund Burke who said: “True Religion is the foundation of society, the basis on which all true Civil Government rests, and both their sanction.”² No doubt, Dr. Ambedkar had an unflinching faith in Religion, but the main question before him was to find out a true Religion, that is whether a Religion should be based on Rules or on Principles. For him, the distinction between Rules and Principles was real and most significant one. It cannot be overlooked or be avoided, because on it depends the nature of Religion. He drew a fine distinction between a Rule and a Principle as follows:

Rules are practical, they are habitual ways of doing things according to prescription. But principles are intellectual; they are useful methods of judging things. Rules seek to tell an agent just what course of action to pursue. Principles do not prescribe a specific course of action. Rules, like cooking recipes, do tell just what to do and how to do it. A principle, such as that of justice, supplies a main head by reference to which he is to consider the bearings of his desires and purposes, it guides him in his thinking by suggesting to him the important consideration which he should bear in mind. This difference between Rules and Principles makes the acts done in pursuit of them different in quality and in content. Doing what is said to be good by virtue of a rule and doing good in the light of a

principle are two different things.\textsuperscript{1}

Attempts have also been made by the Foreign Courts to explain the concept of “religion”. Thus, the United States Supreme Court in Samuel D. Davis v. H.G. Beason\textsuperscript{2} observed:

The term “religion” has reference to one’s views of his relations to his Creator, and to the obligations they impose of reverence for his being and character, and of obedience to his will.

Again, in United States v. Douglas Clyde Macintosh\textsuperscript{3}, Hughes, C.J., defined religion as a belief in relation to God:

The essence of religion is belief in a relation to God involving duties superior to those arising from any human relation.\textsuperscript{4}

\textbf{DIFFERENCE BETWEEN RELIGION AND DHARMA}

The meaning of Dharma in Sanskrit is entirely different as opposed to religion in English. The word ‘Dharma’ has been derived from the root “Dhar” (Dhri) which signifies that which sustains or upholds the essential nature of anything, without which that thing can not retain its independent existence. For example, light and heat are the Dharma of the sun and the fire, the sweetness is the Dharma of sugar, bitterness is the Dharma of salt and so on. Dharma is attribute of the thing or of being and Sanatana means eternal.

The aforesaid definitions presuppose the existence of a Creator or some entity superior to human beings whether the entity is labelled as a God, a Supreme Being or a Creator. Religion is not identical to Dharma. Dharma embraces every type of righteous conduct covering every aspect of life essential for the sustenance and welfare of the individual and the society and includes those rules which guide and enable those who believe in God and heaven to attain moksha (eternal bliss). Rule of dharma are meant to regulate the individual conduct, in such a way as to restrict the rights, liberty, interest and desires of an individual as regards all matters

\textsuperscript{1} Ibid., p. 71.
\textsuperscript{2} 133 US 333. 342 (1890).
\textsuperscript{3} 282 US 605 (1931)
\textsuperscript{4} 282 US 605 (1931) at page 633-4.
to the extent necessary in the interest of other individuals, i.e., the society and at the same time making it obligatory for the society to safeguard and protect the individual in all respects through its social and political institutions. Shortly put, dharma regulates the mutual obligations of individual and the society. Therefore, it was stressed that protection of dharma was in the interest of both the individual and the society. A “state of dharma”, was required to be always maintained for peaceful co-existence and prosperity of all.¹

The word ‘dharma’ or ‘Hindu dharma’ denotes upholding, supporting, nourishing that which upholds, nourishes or supports the stability of the society, maintaining social order and general well-being and progress of mankind; whatever conduces to the fulfillment of these objects is dharma, it is Hindu dharma and ultimately “Sarva Dharma Sambhava”.”²

Very often the words ‘religion’ and ‘dharma’ are used to signify one and the same concept or notion; to put it differently, they are used interchangeably. This, however, is not so, as would become apparent from what is being stated later, regarding our concept of dharma. I am of the considered view that the word religion in the two articles has really been used, not as is colloquially understood by the word religion, but in the sense of it comprehending our concept of dharma. The English language having had no parallel word to dharma, the word religion was used in these two articles. It is a different matter that the word dharma has now been accepted even in the English language, as would appear from Webster’s New Collegiate Dictionary which has defined it to mean: “Dharma: n. (Skt. Fr. Dharayati he holds;) akin to L firmus firm: custom or law regarded as duty: the basic principles of cosmic or individual existence: nature: conformity to one’s duty and nature.” The Oxford Dictionary defines dharma as: “Right behaviour, virtue; the Law (Skt = a decree, custom)”.³

The difference between religion and dharma is eloquently manifested when it is remembered that this Court’s precept is “यतो धर्मस्ततो जन्य?”. It is apparent that the word dharma in this canon or, for that matter, in our saying: “धर्मो व्यति चक्षितः”,

does not mean religion, but the same has been used in the sense defined in the aforesaid two dictionaries. The distinction between religion and dharma has also been explained by saying that religion is enriched by visionary methodology and theology, whereas dharma blooms in the realm of direct experience. Religion contributes to the changing phases of a culture; dharma enhances the beauty of spirituality. Religion may inspire one to build a fragile, mortal home for God; dharma helps one to recognize the immortal shrine in the heart.1

Thus, having love for all human beings is dharma. Helping others ahead of one's personal gain is the dharma of those who follow the path of selfless service. Defending one's nation and society is the dharma of soldiers and warriors. In other words, any action, big or small, that is free from selfishness is part of dharma.2

ESSENTIALS OF RELIGION

What constitutes an essential part of a religion is primarily to be ascertained with reference to the doctrine of that religion itself and the court cannot say that a belief or practice is not part of religion. In support of this contention, the following judgments can be relied on:


2. Sardar Syedna Taher Saifuddin Saheb v. State of Bombay,4


5. N. Adithayan v. Travancore Devaswom Board7


There is no consensus as to the definition of religion. Etymologically the expression religion is the combination of the two Latin expression 're' meaning

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3 AIR 1954 SC 282 : 1954 SCR 1005
5 (1972) 2 SCC 11 : AIR 1972 SC 1586
6 AIR 1954 SC 388 : 1954 SCR 1055
7 (2002) 8 SCC 106
8 AIR 1961 SC 1402 : (1962) 1 SCR 383
back and ‘ligare’ meaning to bind.¹ According to Webster’s Comprehensive Dictionary religion means a belief binding the spiritual nature of man to a supernatural being as involving a feeling of dependence and responsibility, together with the feelings and practices which naturally flow from such a belief.

The Oxford dictionary defines religion as the belief in a superhuman controlling power, especially in a personal God or Gods entitled to obedience and worship.

Swami Vivekananda’s view was that:-

“religion as it is generally taught all over the world, is said to be based upon faith and belief and in most cases consists only of different sects of theories and that is the reason why we find all religions quarrelling with one another. These theories are again based upon faith and belief.”²

According to sage Aurobindo the quest of man for God is the foundation for religion and its essential function is “the search for God and the finding of the God.”³

Sir Julian Huxley a renowned Scientist who synthesized philosophy with science and religion held the view “religion is the product of a certain type of interaction between man and his environment. It always involves an emotional component – the sense of sacredness. It always involves a more than intellectual belief a sense of compulsive rightness. It always concerns with human destiny and with a way of life it always brings human beings into some sort of felt relation with powers or agencies outside his personal self. It always involves some sort of escape from inner conflict.........”

All the three great religions of our country, Hinduism, Islam and Christianity recognize the existence of God. To Christians their religion is a system of faith and worship, to Muslims Islam is a way of life encompassing all aspects of life. Hinduism defies comparison with other religions. It is sui generis. ........Unlike other religions, the Hindu religion does not claim anyone Prophet;

¹ See A. Parthasarthy : Vedanta Treatise, page 106.
² The complete works of Swami Vivekananda, Vol. 1 page 127.
it does not worship any one God; it does not subscribe any one dogma; it does not believe in any one philosophic concept; it does not follow any one set of religious rites or performances; in fact it does not appear to satisfy the narrow traditional features of any religion or creed. It may broadly be described as a way of life and nothing more.\textsuperscript{1} Although the common understanding about Hinduism is that it is founded on pantheism, it was recognized that the belief in the supreme being is the foundation on which the entire edifice of Hinduism rests. In the words of Dr. Radhakrishnan “the main aim of the Hindu faith is to permit image worship as a means to the development of the religious spirit, to the recognition of the Supreme who has His temple in all beings.\textsuperscript{2}

Christianity and Islam are explicitly monotheistic. Religions like Buddhism do not concern with the existence or otherwise of the Supreme being. Apart from the division along with religious lines there are many groups which believe in agnosticism and atheism.

Religion therefore cannot always be linked with the worship of God. It is grounded on faith and so reason can not satisfactorily explains its rational basis. No religion, when put to scientific analysis will yield absolute truths and perhaps that explains the existence of plurality of religions. Human knowledge being imperfect, Shri Aurobindo believed that the truth of any religion related concept cannot be explained with the help of reason.\textsuperscript{3}

\textit{Ratilal Panachand Gandhi v. State of Bombay}\textsuperscript{4}, citing with approval Davar, J. in \textit{Jamshedji Cursetjee Tarachand v. Soonabai}\textsuperscript{5}, Commr., H.R.E. v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt\textsuperscript{6}, Sardar Syedna Taher Saifuddin Saheb v. State of Bombay,\textsuperscript{7} In \textit{Venkataramana Devaru case}\textsuperscript{8} the Supreme Court has held that the right under Article 26(b) of a denomination to manage its own affairs in matters of religion includes even practices which are regarded as part of

\begin{itemize}
\item \textsuperscript{1} Sastri Yagnapurushdasji v. Muldas Bhudardas Vaishya, AIR 1966 SC 1119.
\item \textsuperscript{2} Dr. Radhakrishnan : Religion and Society, page 1-3.
\item \textsuperscript{3} Sri Aurobindo : The Human Cycle, the ideal of Human Unity War and Self-Determination, pp. 130-140.
\item \textsuperscript{4} AIR 1954 SC 388 at P.392 : 1954 SCR 1055
\item \textsuperscript{5} I LR (1909) 33 Bom 122 : 10 Bom LR 417
\item \textsuperscript{6} AIR 1954 SC 282 : 1954 SCR 1005 at PP. 1021-22
\item \textsuperscript{7} AIR 1962 SC 853 : 1962 Supp (2) SCR 496 at PP.531-32
\item \textsuperscript{8} Venkataramana Devaru v. State of Mysore, AIR 1958 SC 255
\end{itemize}
The exercise of the freedom to act and practise in pursuance of religious beliefs is as much important as the freedom of believing in a religion. In fact to persons believing in religious faith, there are some forms of practicing the religion by outward actions which are as much part of religion as the faith itself. The freedom to act and practise can be subject to regulations. In our Constitution, subject to public order, health and morality and to other provisions in Part III of the Constitution. However, in every case the power of regulation must be so exercised with the consciousness that the subject of regulation is the fundamental right of religion, and as not to unduly infringe the protection given by the Constitution. Further, in the exercise of the power to regulate, the authorities cannot sit in judgment over the professed views of the adherents of the religion and to determine whether the practice is warranted by the religion or not. That is not their function. (See Jesse Cantwell v. State of Connecticut\textsuperscript{1}, United States v. Ballard\textsuperscript{2}).

SPIRIT OF RELIGIOUS TOLERANCE

The tolerance and co-existence are the very spirit of our ancient thought. In S.R. Bommai v. Union of India\textsuperscript{3}, a nine-Judge Bench referred to the concept of 'secularism' in the Indian context. Sawant, J. dealt with this aspect and after referring to the Setalvad Lecture, stated thus:

As stated above, religious tolerance and equal treatment of all religious groups and protection of their life and property and of the places of their worship are an essential part of secularism enshrined in our Constitution. We have accepted the said goal not only because it is our historical legacy and a need of our national unity and integrity but also as a creed of universal brotherhood and humanism. It is our cardinal faith. Any profession and action which go counter to the aforesaid creed are a prima facie proof of the conduct in defiance of the provisions of our Constitution.

Articles 25 and 26 embody a tolerance for all religions. This Court has

\textsuperscript{1} 84 L Ed 1213 : 310 US 296 (1939)
\textsuperscript{2} 88 L Ed 1148 : 322 US 78 (1943)
\textsuperscript{3} (1994) 3 SCC 1.
right said:

Our tradition teaches tolerance; our philosophy preaches tolerance; our Constitution practices tolerance; let us not dilute it.

It is in that spirit of tolerance that creeds like the petitioner with their practices must be accepted in our society.

The Supreme Court has explained in a number of decisions that what constitutes an essential part of a religion is primarily to be ascertained with reference to the doctrine of that religion itself and the court cannot say that a belief or practice is not part of religion. This proposition was authoritatively laid down by the Constitution Bench of the Supreme Court (seven Judges) in Shirur Mutt case. This is the most essential part of the fundamental right of freedom of religion. The Supreme Court in subsequent cases has followed the proposition in Shirur Mutt case, Sardar Syedna Taher Saifuddin Saheb v. State of Bombay (five Judges), and in Seshammal v. State of T.N. (five Judges).

In the case of Ratilal Panachand Gandhi v. State of Bombay, the Supreme Court emphasized that no outside authority has any right to say that these are not essential parts of religion and it is not open to the secular authority of the State to restrict or prohibit them in any manner they like under the guise of administering the trust estate.”

The Supreme Court quoted with approval Jamshedji Cursetjee Tarachand v. Soonabai where the Bombay High Court held:

If this is the belief of the community…. A secular judge is bound to accept that belief – it is not for him to sit in judgment on that belief – he has no right to interfere with the conscience of a donor who

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3 AIR 1962 SC 853 : 1962 Supp (2) SCR 496
4 (1972) 2 SCC 11 : AIR 1972 SC 1586
5 AIR 1954 SC 388 : 1954 SCR 1055
6 ILR (1909) 22 Bom 122 : 10 Bom LR 417Z
makes a gift in favour of what he believes to be in advancement of his religion and for the welfare of his community or mankind.

As late as in 2002, the Supreme Court has reiterated this in *N. Adithayan v. Trancore Devaswom Bond*¹, the Supreme Court observed that:

As to what really constitutes an essential part of religion or religious practice has to be decided by the courts with reference to the doctrine of a particular religion or practices regarded as parts of religion.

Subject to consideration of public order, health and morality, it is not open for anybody to question the tenets and practices of religion, however irrational they may appear to an outside.

Article 25(1) states that the persons are entitled to freedom of religion. Hence every member of a religious denomination is entitled to the fundamental right of freedom of religion under Article 25. It necessarily follows that every sect or denomination is entitled to freedom of religion under Article 25. It is undisputed that under Article 26(b) a denomination is entitled to manage its own affairs in matters of religion.²

The first ground is that all religions, though differ in their expressions, lead to the same universal truth and reality. The unity of religions is sought not in common creed, but in a common quest, that is, the quest for ultimate reality. They believe in unity of spirit and not of organization. For almost all the religious forms of life and thought claim the sanction of experience and so the authority of supernatural, and that is said to be the essential basis of the unity of all religions.

The second ground of the unity of all religions is considered to be the moral teachings, that is, all the religions impart moral teachings to the people for their emancipation and well-being. The moral teaching is commonly found among all religions, and in one or the other way, every religion has its own moral system. Like the supernatural, morality has been the common basis of the unity of all religions. Without moral teachings and ideals, no religion is possible.

¹ (2002) 8 SCC 106 at P.123.
² (2004) 2 SCC 770 at P.801
The third point of the unit of all religions is regarded the concept of Moksha, i.e., the salvation of soul, a common belief of all theistic religions. Man, apart from the physical body, has a soul, the universal spirit residing in the body. Its release from the bonds of body and worldly Karmas is essentially the highest aim of human life. The idea of heaven is also associated with it. The idea of Moksha has been considered to be a powerful common ground for the unity of all religions.

Prof. Radhakrishnan has advocated the unity of all religions in his own way: "The study of comparative religion is developing a fairer attitude to other religions. It is impressing on us the fundamental unity of all religions by pointing out that the genius of the people, the spirit of the age and the need of the hour determine the emphasis in each religion. We are learning to think clearly about the inter-relations of religions. We tend to look upon different religions not as incompatibles but as complementaries, and so indispensable to each other for the realization of the common end."¹

Another point of the unity of all religions is said to be the creed of mysticism. A religion is not a correct belief but a righteous living associated with varied life-experience. "The center of gravity in religion has shifted from authority to experience..... The fundamental principles of mystical religion are now very widely accepted, and are, especially with educated people, avowedly the main ground of belief."² This is to suggest that while intellectualism has very little place in religion, the growing insistence on mysticism is tending to grip the minds of people, because mysticism is said to be the life experience of holy persons which seem to be the true expression of the supernatural, the common thread of the unity of all religions. In other words, the mystical realization, which is regarded as the common ground of all religions, has been characterized as 'the Wonderful Great' by some thinkers.

Thinkers like Shankaracharya and Radhakrishnan assert that there is only one 'absolute Truth' which is worshipped in various forms by different religions through symbols. By it, they did not mean either God or god and goddesses. In

² Ibid., p. 60 (Quoted in from: The Platonic Tradition in English Religious Thought by Prof. Dean Inge, 1926, pp. 113-15)
their view, it is Nirguna Brahma’, beyond all qualities of empirical nature, which is the only Reality. Since the Vedic times, the Hindu learned-men had held the concept of Truth as One’ (the Absolute one) as the main thread of all Hindu religious sects and philosophies though it is taken in various forms and is also called by different names. In brief, they consider it to be the chief aim of all religions and therefore, is regarded as the fundamental ground of the unity of all religions.

For Dr. Ambedkar, it is mistaken view. To say that religion is of no importance in life is as wrong as to take shelter behind the view – fostered by the study of comparative religion – that all religions are good, equally true. It is also said that all religions promote ‘good’ among the people. But in Dr. Ambedkar’s opinion, all these views are erroneous and untenable.1

MAJOR RELIGIONS :

The concept of some of the major religions are as under:-

(a) Hinduism

Hinduism follows a policy of assimilation. When the Aryans conquered the country, they found strange deities being worshipped by original inhabitants, which were readily accepted into the Hindu fold. Similarly many alien beliefs were also absorbed by the all-embracing Hinduism. By its elasticity, Hinduism more or less solved the communal problem of the day. Writing of Hindu catholicity, George Bernard Shaw observed:

The apparent multiplication of Gods is bewildering at first glance; but you soon discover that they are all the same God in different aspects and functions and even sexes. There is always the uttermost God which defies personification. This makes Hinduism the most tolerant religion in the world because its own transcendent God includes all possible gods..., which makes room for virgin Mary and modern Feminism by making Shiva a woman as well as a man. Christ is there as Krishna, who might also be Dionysious. In fact,

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1 Dr, Babasaheb Ambedkar: Writings and Speeches, Vol. 3. p. 22.
Hinduism is so elastic and so subtle that the profoundest Methodist and the crudest idolaters are equally at home in it.

No religion is free of divisions. In Islam there are over seventy sects. Similarly Christianity is split up into numerous denominations. Hinduism, too, has numerous divisions and sub-divisions. But the diversity of views and practices among the Hindus is confined more to form than to substance. Hardly an attempt was made by one Hindu sect to terminate the existence of another. Religious wars were practically unknown in India. ‘When a worshipper of Visnu had a feeling in his heart against a worshipper of Siva and bowed before the image of Visnu the face of the image divided itself in half and Siva appeared on one side and Visnu on the other, and the two smiling as one face on the bigoted worshipper told him that Visnu and Siva were one’ Indeed, Vishnu Purana holds that the Supreme is one; he assumes the name Brahma at the time of creation, Visnu while maintaining it and Siva at the time of destruction.

The word ‘Hindu’ came into vogue with the advent of the Greeks who called the inhabitants of the Indus Valley as ‘Indoi’ and later on this designation was extended to include all persons who lived beyond Indus Valley. It is very significant that the term Hindu even before the codification of the Hindu Law in 1955-1956 had not been defined in terms of religion.

The Vedas are said to be source of knowledge. The entire body of Hindu law has emanated from the Vedas. Since it has emanated from Vedas, the Hindu law is divine law, or revelation. Thus in theory, Sruti is considered to be fundamental source of Hindu Law. Till today, there is no precise definition the term “Hindu” available. Either in any statute or in any judicial pronouncement. The persons to whom Hindu Law applies—(1) Any person who is Hindu, Jain, Buddhist or Sikh by religion. (ii) Any person who is born on Hindu parents; (iii) Any person who is not a Christian, Muslim, Parsi or Jew.

A person may be a Hindu by birth, or by conversion. A mere theoretical allegiance to the Hindu faith by a person born in another faith does not convert him into Hindu, nor is a bare declaration that he is a Hindu sufficient to convert him to Hinduism.
In Dr. Ambedkar’s view, “the Hindu Religion, as contained in the Vedas and the Smritis, is nothing but a mass of a critical, political and sanitary rules and regulations, all mixed up. What is called Religion by the Hindus is nothing but a multitude of commands and prohibitions."¹ The rules of Varnashrama Dharma support it, and they are also nothing but the strict rules imposed on the Hindus by the Shastras, and they, like the Muslims, cannot go beyond the prescribed rules of conduct.

After a close examination of Hinduism as Varnashrama Dharma, the Religion of Rules, the principal points of Dr. Ambedkar’s analysis may be summarized as follows:

1. The Varnashrama Dharma has ruined the Hindus.
2. The re-organization of the modern Hindu Society is impossible because the Varnashrama Dharma is like a leaky pot or like a man running on the nose.
3. The Varnashrama Dharma is incapable of sustaining itself by its own virtue and has an inherent tendency to degenerate in caste and untouchability unless there is a legal sanction behind it which can be enforced against everyone transgressing his varna.
4. The re-organization of the Hindu Society on the basis of the Rules of Varnashrama Dharma is harmful, because the effect of the Varna Vyavastha is to degrade the masses by denying them opportunity to acquire knowledge and to emasculate them by denying them the right to be armed and to be educated.
5. If possible, the Hindu Society must be reorganized on a religious basis consisting of the principles of Liberty, Equality and Fraternity, the highest values of humanistic nature.
6. In order to achieve this object, the sense of religious sanctity and divinity behind the Shastras must be discouraged and destroyed as well.

¹ Dr. Babasaheb Ambedkar: Writings and Speeches, Vol. 3. p. 72.
7. The Rules of Varnashrama Dharma can be annulled and destroyed only when the divinity and infallibility of the Shastras is discarded as nothing but irrational.¹

**Buddhism**

Buddhists do not worship a god but follow the teaching of an Indian prince, Siddhartha Gautama (c. 563-483 BC). Buddha taught four “noble” truths. First: life is full of suffering. Second: this suffering is caused by greed. Third: suffering would end if we stopped desiring material things. Fourth: there is a path to a state of peace. Buddhist monks and nuns live simple lives in monasteries. They carry out ceremonies in the temples and monasteries, where people come to meditate and pay their respects to Buddha. Buddha’s teachings were written down about 300 years after his death and these are the sacred texts that Buddhists study.²

**Sikhism**

Sikhs follow the teachings of ten leaders called gurus (guru is the Punjabi word for “holy man”). They all lived between 1469 and 1708. The first guru and founder of Sikhism was Guru Nanak who was born a Hindu. Guru Nanak believed that ceremonies and rituals divided people of different religions and that it was how people behaved and what they believed in that mattered. The gurus who came after him were all chosen to carry on his work. Sikhs believe in one God who created the Universe. Their place of worship is called a gurdwara, which means “God’s house”. There are no priests in Sikhism. Readers, called granthi, conduct services and read from the Guru Granth Sahib in the gurudwara, but any member of the congregation can speak at a service.

**Christianity**

Under Christianity, the Rules of conduct are in a prevailing position, but are not so rigid and final as we find in Islam and Hinduism. Christianity believes in the Holy Trinity, that is, the Holy God, the Holy Son and the Holy Ghost. Every Christian has to believe it otherwise he cannot be initiated into the fold as a true Christian. In Christianity, God is like a King who orders the people to follow a

particular way of life. He gives orders in the form like: “You have to do it”, or “you have not to do it.” The essence of the Christian teaching is “Love God” or “Be good to your neighbour, because all are the children of God.” That is “to love God is to love mankind.” Each Christian has to visit Church every Sunday in order to remember God and ask for forgiveness for his sinful acts. It means that good acts are those which are directed by God and the Church as well as per directions of the Bible, the Holy Book of Christianity. Its main aim is ‘Sadachar’ as conceived by the ideals of the Bible. In brief, a Christian is not allowed to argue against both the rules of the Bible and the rules of the Church even on rational grounds.

**Judaism**

Judaism is also a theistic religion. It is also rigid in its socio-moral code like Islam and Christianity. There are certain religious duties which do not allow the Jews to act otherwise, and under rules they have to limit their desires. With regard to the food, the rules of Judaism are much more strict what Hinduism has prescribed for the Hindus. For example, some animals have been named as ‘unholy’ and their flesh is forbidden to be taken by the Jews. The rules of preparing some meals have also been prescribed. The relation between husband and wife, boy and girl, including that of love and sex, are strictly regulated by the religious sanctions. The sources of Judaism are the Old Testament and the Talmud (an intricate scholastic system of Commentaries on the old Testament) which have prescribed a particular way of life. Likewise, Sikhism is also a theistic religion, in which the ‘Gurugranth Saheb’ is supreme, and no Sikh can go beyond its limits and teachings. The Sikhs are also bound by certain rules which regulate their social and moral ties. To put it briefly, almost all the theistic religions have developed elaborate codes of rules the violation of which is taken as sacrilege.¹

**Islam**

The followers of Islam are called Muslims. The founder of Islam was the Prophet Muhammad, who was born in Makkah, Arabia, in AD 570. He was making a pilgrimage to Mount Hira, near Makkah, when the angel Gabriel came to him and told him that there is only one God, who is called Allah and that he,

Muhammad, should become the prophet of Allah and teach God's will. To Muslims, Islam is a way of life, supported by five rules or "pillars". Firstly, there is no God except Allah; Prophet Muhammad is His messenger. Secondly, a prayer to Allah is to be made five times a day. Thirdly, alms should be given to the poor at least once a year. Fourthly, Muslims should fast between dawn and dusk, especially during the month of Ramadan. Finally, Muslims should make a pilgrimage once in their lives to Makkah1.

CONCEPT OF SECULAR STATE

Secularism is one of the basic features of the Constitution of India. While freedom of religion is guaranteed to all persons in India, from the point of view of the State, the religion, faith or belief of a person is immaterial. To the State, all are equal and are entitled to be treated equally. In matters of State, religion has no place. No political party can simultaneously be a religious party. Politics and religion cannot be mixed. Any State Government which pursues unsecular policies or unsecular course of action acts contrary to the policies or unsecular course of action acts contrary to the constitutional mandate and renders itself amenable to action under Article 356.

Our Constitution does not Prohibit the practice of any religion either privately or publicly. Through the Preamble of the Constitution, the people of this country have solemnly resolved to constitute this country, among others into a secular republic and to secure to all its citizens (i) JUSTICE, social economic and political; (ii) LIBERTY of thought, expression, belief, faith and worship; (iii) EQUALITY of status and of opportunity; and (iv) to promote among them all FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation. Article 25 of the Constitution guarantees to all persons equally the freedom of conscience and the right to freely profess, practise and propagate religion subject to public order, morality and health and subject to the other Fundamental Rights and the State's power to make any law regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice. Article 26 guarantees every religious denomination or any section thereof the right (a) to establish and maintain institutions for religious and

charitable purposes, (b) to manage its own affairs in matters of religion, (c) to own and acquire movable and immovable property and (d) to administer such property in accordance with law. Article 29 guarantees every section of the citizens its distinct culture, among others. Article 30 provides that all minorities based on religion shall have the right to establish and administer educational institutions of their choice. It prohibits the State from making any discrimination in granting aid to an educational institution managed by a religious minority. Under Articles 14, 15 and 16, the Constitution prohibits discrimination against any citizen on the ground of his religion and guarantees equal protection of law and equal opportunity of public employment. Article 44 enjoins upon the State to endeavor to secure to its citizens a uniform civil code. Article 51-A casts a duty on every citizen of India, among others, (a) to abide by the Constitution and respect its ideals and institutions, (b) to promote harmony and the spirit of common brotherhood, among all the people of India, transcending, among others, religious and sectional diversities, (c) to value and preserve the rich heritage of our composite culture, (d) to develop scientific temper, humanism and the spirit of inquiry and reform; and (e) to safeguard public property and to abjure violence.

These above said provisions by implication prohibit the establishment of a theocratic state and prevent the state either identifying itself with or favouring any particular religion or religious sect or denomination. The state is enjoined to accord equal treatment of all religions and religious sects and denominations.

As has been explained by Shri M.C. Setalvad (Patel Memorial Lectures – 1965 on Secularism) –

Secularism often denotes the way of life and conduct guided by materialistic considerations devoid of religion. The basis of this ideology is that material means alone can advance mankind and that religious beliefs retard the growth of the human beings..... this ideology is of recent growth and it is obvious that it is quite different from the concept of secular State in the West which took root many

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1 S.R. Bommai v. Union of India, (1994) 3 SCC 1 at P.144
2 Ibid, P.144

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centuries ago....

A different view in relation to religion is the basis of 'secularism' understood in the sense of what may be called a 'secular attitude' towards life. Society generally or the individual constituting it tend progressively to isolate religion from the more significant areas of common life. Many of us, Hindus and Muslims and others, are in our way of life, and outlook on most matters largely governed by ideas and practices which are connected with or are rooted in our religion. The secular attitude would wean us away from this approach so that in our relations with our fellow beings or in dealings with other social groups, we have less and less regard for religion and religious practices and base our lives and actions more on worldly considerations, restricting religion and its influence to what has been called its 'proper' sphere, i.e., the advancement of the spiritual life and well-being of the individual. Secularism of this character is said to be essential to our progress as human beings and as a nation because it will enable us to shake off the narrow and restrictive outlook arising out of casteism, communalism and other like ideas which come in the way of our development.

.... The concept of the secular State is quite distinct from 'secularism' of the kinds we have adverted to above..... No doubt, the two concepts are interdependent in the sense that it is difficult to conceive of a society or a group of individuals being induced to adopt a secular philosophy or a secular attitude without the aid of a secular State.

A secular State is not easy to define. According to the liberal democratic tradition of the West, the secular State is not hostile to religion but holds itself neutral in matters of religion......

Thereafter, referring to the Indian concept of secularism, the learned jurist stated as follows:-

The secularist way of life was repeatedly preached by leaders of movement so that religious matters came to be regarded entirely as relating to the conscience of the individuals......

2 Ibid at P.145
The coming of the partition emphasized the great importance of secularism. Notwithstanding the partition, a large Muslim minority consisting of a tenth of the population continued to be the citizens of independent India. There are other important minority groups of citizens. In the circumstances, a secular Constitution for independent India under which all religions could enjoy equal freedom and all citizens equal right and which could weld together into one nation the different religious communities, become inevitable.¹

Thereafter, the learned jurist has gone on to point out that our Constitution undoubtedly lacks a complete separation between the church and the State as in the United States and at the same time we have no established church as in Great Britain or some other countries. In our country, all religions are placed on the basis of equality and it would, therefore, seem that it is erroneous to describe our country as a secular State. He quoted Dr. Radhakrishnan who said that “the religious impartiality of the Indian State is not to be confused with the secularism or atheism”. He also pointed out that the proceedings of the Constituent Assembly show that “two attempts made to introduce the word ‘secular’ in the Constitution had failed....” At the same time, he asserted that, “......nevertheless, it could not be said that the Indian State did not possess some important characteristics of a Secular State” and has pointed out some of the provisions of the Constitution to which we have already made a reference above. He has then stated that the ideal of a secular State in the sense of a State which treats all religions alike and displays benevolence towards them is in a way more suitable to the Indian environment and climate than that of a truly Secular State by which he meant a State which creates complete separation between religion and the State. Justice Chinnappa Reddy, delivering his Ambedkar Memorial Lecture on ‘Indian Constitution and Secularism’ has observed that:

Indian constitutional secularism is not supportive of religion at all but has adopted what may be termed as permissive attitude towards religion out of respect for individual conscience and dignity. There,

¹ S.R. Bommai v. Union of India, (1994) 3 SCC 1 at P. 145
even while recognizing the right to profess and practise religion, etc., it has excluded all secular activities from the purview of religion and also of practices which are repugnant to public order, morality and health and are abhorrent to human rights and dignity, as embodied in the other fundamental rights guaranteed by the Constitution.

Secularism became the means and consciously pursued for full practical necessities of human life to liberate the human spirit from bondage, ignorance, superstition which have held back humanity. The goal of every civilized democratic society is the maximization of human welfare and happiness which would be best served by a happy organization.

SECULARISM AND SECULARISATION

Freedom of faith and religion is an integral part of social structure. Such freedom is not a bounty of the State but constitutes the very foundation on which the State is erected. Human liberty sometimes means to satisfy the human needs in one’s own. Freedom of religion is imparted in every free society because it is a part of the general structure of the liberty in such a society and secondly because restrictions imposed by one religion would be an obstacle for others. In the past religious beliefs have become battlegrounds for power and root cause for suppression of liberty. Religion has often provided a pretext to have control over vast majority of the members of the society. Democratic society realizes folly of the vigour of religious practices in society. Strong religious consciousness not only narrows the vision but hampers rule of law. The Founding Fathers of the Constitution, therefore, gave unto themselves “we people of India”, the Fundamental Rights and Directive Principles of State Policy to establish an egalitarian social order for all sections of the society in the supreme law of the land itself. Though the concept of “secularism” was not expressly engrafted while making the Constitution, its sweep, operation and visibility are apparent from fundamental rights and directive principles and their related provisions. It was made explicit by amending the preamble of the Constitution 42nd Amendment Act. The concept of secularism of which religious freedom is the foremost appears to visualize not only of the subject of God but also an understanding between man and
man. Secularism in the Constitution is not anti-God and it is sometimes believed to be a stay in a free society. Matters which are purely religious are left personal to the individual and the secular part is taken charge by the State on grounds of public interest, order and general welfare. The State guarantee individual and corporate religious freedom and dealt with an individual as citizen irrespective of his faith and religious belief and does not promote any particular religion nor prefers one against another. The concept of the secular State is, therefore, essential for successful working of the democratic form of Government. There can be no democracy if anti-secular forces are allowed to work dividing followers of different religious faith flying in at each other's throats. The secular Government should negate the attempt and bring order in the society. Religion in the positive sense, is an active instrument to allow the citizen full development of his person, not merely in the physical and material but in the non-material and non-secular life.¹

Prof. Goethinysem in his article outlined the process of secularism of life and thoughts by which religious sectarianism comes into contact in daily social and economic spheres of life and he summarises with “the ideal of human and social happiness through secularization of life all the groups of people in the country striving by most enlightened methods to establish the maximum of social justice and welfare in the world”. According to Pt. Jawaharlal Nehru democracy necessarily implies rigorous self-discipline without which democracy cannot succeed. Swami Vivekananda explaining the Vedantic ideas of God and religion in comparison with western thoughts stated that the religious attitude is always to seek the dignity inside his own self as a natural characteristic of Hindu religion and religious attitude is always presented by making the subject close his eyes looking inward. Dr. Thouless in his ‘Introduction to the Psychology of Religion’ after analyzing diverse elements and definitions of religion defined religion as “a felt practical relationship with what is believed in a superhuman being or beings”. The process of secularisation of life and thought consistently increasing the withdrawal and separation of religion properly so-called from other spheres of life and thought which are governed by independent from above rules and standards. According to Sir James Freezer in his ‘Golden Bough’ religion consists largely of not only of methodological and rituals dominated by all aspects of his life, social, economic,

¹ S.R. Bommai v. Union of India, (1994) 3 SCC 1 at P.163
political, legal cultural, ethical or moral, but also technological. The interaction of religion and secular factors in ultimate analysis is to expose the abuses of religion and of belief in God by purely partisan, narrow or for selfish purpose to serve the economic or political interests of a particular class or group or a country. The progress of human history is replete with full misuse of religious notions in that behalf. But the scientific and analytical spirit characterizes secularism as saviour of the people from the dangers of supposed fusion of religion with political and economic activities and inspire the people. The secularism, therefore, represents faiths born out of the exercise of rational faculties. It enables people to see the imperative requirements for human progress in all aspects and cultural and social advancements and indeed for human survival itself. It also not only improves the material conditions of human life, but also liberates the human spirit from bondage of ignorance, superstition, irrationality, injustice, fraud, hypocrisy and oppressive exploitations. In other words, though the whole course of human history discloses an increasing liberation of mankind, accomplished thought, all is covered by the term secularism. Trevor Ling's writings on Buddhism spoke of it as a secular religion, which teaches eight-fold path of his mastery and virtuous conduct of ceaseless, self-critical endeavour for right belief, right aspiration, right speech, right conduct, right modes of livelihood, right efforts, right-mindedness and right scripture. Buddhism rationalizes the religion and civilization to liberate individual from blindfold adherence to religious belief to rationalization, in the language of Trevor Ling "flat alluvial expansion of secularism". Dr. Ambedkar believed that Buddhism is the religion best suited to the Indian soil. Mahatma Gandhi, Father of the Nation, spoke for the need of religion thus:

The need of the mankind is not one of religion, but mutual respect and tolerance of the devotees of different religions. We want to reach not a data level, but unity in diversity. The soul of all religions is one, but it is encased in the multitude of forms. The latter will persist to the end of the time.¹

Dr. S. Radhakrishnan, the philosopher, former President of India, in his 'Discovery of Faith' stated that the religious impartiality of the Indian State is not

¹ S.R.Bommai v. Union of India (1994) 3 SCC 1 at P.165
to be confused with the secularism or atheism. Secularism as defined here is in accordance with the enormous religious traditions of India. It is for living in harmony with each other. This fellowship is based on the principle of diversity in unity which alone has all qualities of creativeness. In his foreword to Dr. Abid Hussain's 'The National Culture of India', Dr. S. Radhakrishnan remarked that secularism does not mean licence or a thrust of material comfort. It lays thrust on universality of the supreme fellow which may be attained by variety of ways. Indian concept of secularism means "the equal status to all religions". He said that "no one religion should be given preferential status or unique distinction and that no one religion should be accorded special privileges in national life". That would be violative of basic principles of democracy. No group of citizens can so arrogate to itself the right and privilege which it denies to others. No person shall suffer any form of disability or discrimination because of his religion, but also alike should be free to share to the fullest degree in the common life. This is the basic principle in separation of religion and the State. Granville Austin in his 'The Indian Constitution : Cornerstone of a Nation' stated that the Constitution-makers intended to secure secular and socialist goals envisaged in the preamble of the Constitution. In *Ziyauddin Burhamuddin Bukhari v. Brijmohan Ramdass Mehra*¹ this Court held that:

The Secular State rising above all differences of religion, attempts to secure the good of all its citizens irrespective of their religious beliefs and practices. It is neutral or impartial in extending its benefits to citizens of all castes and creeds. Maitland had pointed out that such a state has to ensure, through its laws, that the existence or exercise of a political or civil right or the right or capacity to occupy any office or position under it or to perform any public duty connected with it does not depend upon the profession or practice of any particular religion.

It was further pointed out:

Our Constitution and the laws framed thereunder leave citizens free to work out happy and harmonious relationships between their

¹ (1976) 2 SCC 17 at P. 32 : 1975 Sup SCR 281 at P.297

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religions and the quite separable secular fields of law and politics. But, they do not permit an unjustifiable invasion of what belongs to one sphere by what appertains really to another. It is for courts to determine, in a case of dispute, whether any sphere was or was not properly interfered with, in accordance with the Constitution, even by a purported law.

Thereby the Supreme Court did not accept the wall of separation between law and the religion with a wider camouflage to impress control of what may be described exploitative parading under the garb of religion. Throughout ages endless stream of humans of diverse creeds, cultures and races have come to India from outside regions and climates and contributed to the rich cultural diversity. Hindu religion developed resilience to accommodate and imbibe with tolerance the cultural richness with religious assimilation and became a land of religious tolerance.¹

Making of a nation State involves increasing secularization of society and culture. Secularism operates as a bridge to cross over from tradition to modernity. The Indian State opted this path for universal tolerance due to its historical and cultural background and multi-religious faiths. Secularism in the Indian context bears positive and affirmative emphasis. Religions with secular craving for spiritual tolerance have flourished more and survived for longer period in the human history than those who claimed to live in a non-existent world of their own. Positive secularism, therefore, separates the religious faith personal to man and limited to material, temporal aspects of human life. Positive secularism believes in the basic values of freedom, equality and fellowship. It does not believe in hark back either into country’s history or seeking shelter in its spiritual or cultural identity dehors the man’s need for his full development. It moves mainly around the State and its institution and, therefore, is political in nature. At the same time religion does not include other socio-economic or cultural social structure. The State is enjoined to counteract the evils of social forces, maintaining internal peace and to defend the nation from external aggression. Welfare State under the Constitution is enjoined to provide means for well-being of its citizens; essential

¹ S.R. Bommai v. Union of India (1994) 3 SCC 1 at P. 166.
services and amenities to all its people. Morality under positive secularism is a pervasive force in favour of human freedom or secular living. Prof. Holyoke, as stated earlier, who is the father of modern secularism stated that “morality should be based on regard for well-being of the mankind in the person, to the exclusion of all considerations drawn from the belief in god or a future State”. Morality to him was a system of human duty commencing from man and not from God as in the case of religion. He distinguished his secularism from Christianity, the living interest of the world that is prospects of another life. Positive secularism gives birth to biological and social nature of the man as a source of morality. True religion must develop into a dynamic force for integration without which the continued existence of human race itself would become uncertain and unreal.

Secularism teaches spirit of tolerance, catholicity of outlook, respect for each other’s faith and willingness to abide by rules of self-discipline. This has to be for both – as an individual and as a member of the group. Religion and secularism operate at different planes. Religion is a matter of personal belief and mode of worship and prayer, personal to the individual while secularism operates, as stated earlier, on the temporal aspect of the State activity in dealing with the people professing different religious faiths. The more devoted a person in his religious belief, the greater should be his sense of heart, spirit of tolerance, adherence of secular path. Secularism, therefore, is not antithesis of religious devoutness. Swami Vivekananda and Mahatma Gandhi, though greatest Hindus, their teachings and examples of lives give us the message of the blend of religion and the secularism for the good of all the men. True religion does not teach to hate those professing other faiths. Bigotry is not religion, nor can narrow-minded favouritism be taken to be an index of one’s loyalty to his religion. Secularism does not contemplate closing each other’s voices to the sufferings of the people of other community nor it postulates keeping mum when his or other community make legitimate demands. If any group of people are subjected to hardship or sufferings, secularism always requires that one should never remain insensitive and aloof to the feelings and sufferings of the victims. At moments of testing times people rose above religion and protected the victims. This cultural heritage in India shaped that people of all religious faiths, living in different parts of the country are to tolerate each other’s religious faith or beliefs and each religion made its contribution to
enrich the composite Indian culture as a happy blend or synthesis. Our religious
tolerance received reflections in our constitutional creed.¹

The preamble of the Constitution inter alia assures to every citizen liberty of
thought, expression, belief, faith and worship. Article 5 guarantees by birth
citizenship to every Indian. No one bargained to be born in a particular religion,
caste or region. Birth is a biological act of parents. Article 14 guarantees equality
before the law or equal protection of laws. Discrimination on grounds of religion
was prohibited by Article 15. Article 16 mandates equal opportunity to all citizens
in matters relating to employment or appointment to any office or post under the
State and prohibits discrimination on grounds only of inter alia religion. Article 25
while reassuring to all persons freedom of conscience and the right to freely
profess, practice and propagate his religion, it does not affect the operation of any
existing law or preventing the State from making any law regulating or restricting
any social, financial, political or other secular activity which may be associated
with the religious practice. It is subject to providing a social welfare and reform or
throwing open all Hindu religious institutions of public character to all classes of
citizens and sections of Hindus. Article 26 equally guarantees freedom to manage
religious affairs equally subject to public order, morality and health. Article 27
reinforces the secular character of Indian democracy enjoining the State from
compelling any person or making him liable to pay any tax, the proceeds of which
are specifically prohibited to be appropriated from the consolidated fund for the
promotion or maintaining of any particular religion or religious denomination.
Taxes going into consolidated funds should be used generally for the purpose of
ensuring the secular purposes of which only some are mentioned in Articles 25 and
26 like regulating social welfare, etc. Article 28(1) maintains that no religious
instructions shall be imparted in any educational institutions wholly maintained out
of the state funds or receiving aid from the state. Equally no person attending any
educational institution recognized by the State or receiving aid from the State funds
should be compelled to take part in any religious instruction that may be imparted
in such institution or to attend any religious worship that may be conducted in such
institution or in any premises attached thereto unless such person or in the case of a
minor person his guardian has given his consent thereto. By Article 30(2) the State

¹ S.R. Bommai v. Union of India (1994) 3 SCC 1 at P.167
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is enjoined not to discriminate, in giving aid to an educational institution, on the ground that it is a minority institution whether based on religion or language. It would thus be clear that Constitution made demarcation between religious part personal to the individual and secular part thereof. The State does not extend patronage to any particular religion, State is neither pro particular religion nor anti particular religion. It stands aloof, in other words maintains neutrality in matters of religion and provides equal protection to all religions subject to regulation and actively acts on secular part.¹

Prof. Upendra Baxi² says that “Secularism” in the Indian Constitution connotes:

(i) The State by itself, shall not espouse or establish or practice any religion;

(ii) public revenues will not be used to promote any religion;

(iii) the State shall have the power to regulate any ‘economic, financial or other secular activity’ associated with religious practice [Article 25(2)(a) of the Constitution];

(iv) the State shall have the power through the law to provide for ‘social welfare and reform or the throwing open of the Hindu religious institutions of a public character to all classes and sections of Hindus’ [Article 25(2)(b) of the Constitution];

(v) the practice of untouchability (insofar as it may be justified by Hindu religion) is constitutionally outlawed by Article 17;

(vi) every individual person will have, in that order, an equal right to freedom of conscience and religion’

(vii) these rights are however subject to the power of the State through law to impose restrictions on the ground of ‘public

¹ S.R. Bommai v. Union of India (1994) 3 SCC 1 at P. 168
order, morality and health’;

(viii) “these rights are furthermore subject to other fundamental rights in Part III.”

Prof. (Dr.) Tahir Mahmood¹ says as a member of the Law Commission, my view is that we are of course a secular nation by the dictates of the Constitution, but the Indian concept of secularism is fundamentally different from its western counterpart. It certainly does not mean irreligion and demands from the State without due regard for the established religious beliefs.

Summarising the true concept of secularism under the Indian Constitution, the Constitution Bench of Supreme Court in a leading case in M. Ismail Faruqi (Dr) v. Union of India (Ayodhya case)² observed as under:-

It is clear from the constitutional scheme that it guarantees equality in the matter of religion to all individuals and groups irrespective of their faith emphasizing that there is no religion of the State itself. The Preamble of the Constitution read in particular with Articles 25 to 28 emphasizes this aspect and indicates that it is in this manner the concept of secularism embodied in the constitutional scheme as a creed adopted by the Indian people has to be understood while examining the constitutional validity of any legislation on the touchstone of the Constitution. The concept of secularism is one facet of the right to equality woven as the central golden thread akin the fabric depicting the pattern of the scheme in our Constitution.

The word secularism defined in Oxford Dictionary means that “morality should be based solely in regard to the well-being of the mankind in the present life to the exclusion of all considerations drawn from the belief in God or a future study”. In Encyclopaedia Britannica secularism is defined as “branch of study”. In Encyclopaedia Britannica secularism is defined as “branch of totalitarian ethics, it is for the physical moral and social improvement of mankind which neither affirms nor denies theistic problems of religion”. Prof. Goethinysem of the Berlin

¹ The Hindustani Times, Delhi dated 17.9.2003 (Inner voice).
² (1994) 6 SCC 360.
University writing on secularism in the Encyclopaedia of the Social Sciences (1939 Edn.) defined it as "the attempt to establish autonomous sphere of knowledge purged of supernatural, fideistic presuppositions". He described it, in its philosophical aspect, "as a revolt against theological and eventually against metaphysical absolutes and revolt against theological and eventually against metaphysical absolutes and universals". He pointed out that "the same trend may be charted out in the attitudes towards social and political institutions", so that men in general broke away from their dependence upon the Church which was regarded as the guardian of an eternal welfare which included that in this world as well as that in the next, and, therefore, was considered entitled to primacy or supremacy over transient secular authorities. He indicated how this movement expanded in the second half of the eighteenth century, into a secularized universalism, described as "Enlightenment" which conceived of man on earth as the source of all really significant and verifiable knowledge and light. It was increasingly realized that man depended for his welfare in this world upon his own scientific knowledge and wisdom and their applications and upon a socio-economic system of which, willy-nilly, he found himself a part. He had, therefore, argued that the man has to take the responsibility for and bear the consequence of his own follies and inequities and not look upon them as a part of some inscrutable design of external powers or beings controlling his destiny. G.L. Holyoake, an associate of Charles Broadlaugh in his Principles of Secularism in 1859 advocated for secularism which received approval and acceptance by celebrated political philosopher J.S. Mill. Jeremy Bentham's The Theory of Legislation formulated in the eighteenth century stands on moral-based politics and defined law from the point of view of human welfare sought through democratic liberal channels and intended to attain "the greatest happiness of the greatest number", a maxim dear to democratic utilitarian political philosophers.

In Ratilal Panachand Gandhi v. State of Bombay the Supreme Court defined religion that it is not necessarily atheistic and, in fact, there are well-known religion in India like Buddhism and Jainism which do not believe in the existence

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1 1954 SCR 1055 : AIR 1954 SC 388
of God or caste. A religion undoubtedly has different connotations which are regarded by those who profess that religion to be conductive to their spiritual well-being but it would not be correct to say or seems to have been suggested by the one of the learned Brothers therein that matters of religion are nothing but matters of religious faith and religious belief. The religion is not merely only a doctrine or belief as it find expression in acts as well. In *Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar*¹, known as Shirur Mutt case this Court interpreted religion in a restricted sense confining to personal beliefs and attended ceremonies or rituals. The restrictions contemplated in Part III of the Constitution are not the control of personal religious practices as such by the State but to regulate their activities which are secular in character though associated with religions, like management of property attached to religious institutions or endowments on secular activity which are amenable to such regulation. Matters such as offering food to the deity, etc. are essentially religious and the State does not regulate the same, leaving them to the individuals for their regulation. The caste system though formed the kernel of Hinduism, and as a matter of practice, for one-fourth of the Indian population – Scheduled Castes and Scheduled Tribes – were prohibited entry into religious institutions like temples, maths, etc. on grounds of untouchability; Article 17 outlawed it and declared such practice an offence. Articles 25 and 26 have thrown open all public places and all places of public worship to Hindu religious denominations or sects for worship, offering prayers or performing any religious service in the places of public worship and no discrimination should be meted out on grounds of caste or sect or religious denomination.

Eugene Smith in his Indian Constitution has stated that secularization of law is essential to the emergence of a modern Indian State, foundation of which stands on the twin principles of democracy and secularism. He further stated that “the existence of different personal laws contradicts the principles of non-discrimination by the State”. Non-discrimination is based on the philosophy of the individual, not the group, as the focal point and the basic unit of the nation. The civilization, culture, custom, usage, religion and law are founded upon the community life for man’s well-being. The man will obey the command of the community by consent.

¹ 1954 SCR 1005 : AIR 1954 SC 282
The law formulates the principles to maintain the order in the society to avoid friction. Democracy brings about bloodless revolution in the social order through rule of law.¹

The mandate of the Constitution is to build a welfare society in which justice social, economical and political shall inform all institutions of our national life. The hopes and aspirations aroused by the Constitution will be belied if the minimum needs of the lowest of our citizens are not met.

SECULARISM IN THE INDIAN ETHOS

A reference to the Address of the former President of India, Dr. Shanker Dayal Sharma, as the then Vice-President of India, on “Secularism in the Indian Ethos” while delivering Dr. Zakir Hussain Memorial Lecture of Vishva-Bharati, Shantiniketan, on 29.4.1989 is useful. Therein, he referred to the difference between our understanding of the word ‘secular’ and that in the West or its dictionary meaning, and said²:

“We in India, however, understand secularism to denote ‘Sarva Dharma Samabhaav’: an approach of tolerance and understanding of the equality of all religions.

* * *

This philosophical approach of understanding, coexistence and tolerance is the very spirit of our ancient thought.

* * *

The Yajur Veda states:

मित्रस्य मा चक्षुषा सर्वाणि भूलानि समीक्षत्ताम् ।

मित्रस्यां ह चक्षुषा सर्वाणि भूलानि समीक्षे ।


² Ismail Faruqui v. Union of India, (1994) 6 SCC 360 at P. 399
‘May all beings look on me with the eyes of a friend; May I look on all beings with the eyes of a friend. May we look on one another with the eyes of a friend.’

A very significant manifestation of secular outlook is contained in the Prithvi Sukta in the Atharva Veda:

\[ जनं विस्रोति बहुधा विवाचसम् । नानाधामाणं पृथ्वी यथोकसम् । \]

This Earth, which accommodates peoples of different persuasions and languages, as in a peaceful home – may it benefit all of us.

\[ ता नः प्रजा: बहुतां समया राज्यो मदु पृथिवि चेहि महयम् । \]

‘Oh, Mother Earth, give to us, as your children the capacity to interact harmoniously; may we speak sweetly with one another.”

And the Rig Veda emphatically declares:

‘एकाद मानुषी जाति’

‘All human beings are of one race.’

Thus a philosophical and ethnological composite is provided by ancient Indian thought for developing ‘Sarva Dharma Samabhāv’ or secular thought and outlook. This enlightenment is the true nucleus of what is now known as Hinduism.”

Proceeding further, referring to the impact of other religions on the Indian ethos, he said:

Two aspects in this regard are noteworthy. First, the initial appearance of Christianity or Islam or Zoroastrianism in India and their establishment on the mainland did not occur as a result of military conquest or threat of conquest. These religions were given a place by virtue of the attitude of accommodation and coexistence
displayed by local authorities – including the main religious authorities. The second aspect is even more important: Christianity, Islam and Zoroastrianism brought with them spiritual and humanistic thought harmonious and, in fact, identical to the core ideas of the established religious thought in India as exemplified by the basic beliefs of Vedic, Vedantic, Buddhist and Jain philosophy.

The influence of saints and holy persons was indicated thus:

There was natural interest, therefore, in Islam as a revealed religion brought forth by a Prophet of profound charisma who had faced adversities, and in Christianity, which spread the light of Jesus Christ who had suffered a terrible crucifixion for humanity's sake. The Quaran moreover referred to great souls such as Abraham, Isaac, Ishmael, Jacob, Moses mentioned in the Old Testament of the Christian faith and Jesus, Al-Fatiha or Fatiha Tu Alfattha which is also referred to as Ummul Quran or the essence of the Quran refers to ‘Allah’ as Rab-ul-Alamin or Lord of the entire universe. It does not confine him to Muslims alone. The Second Surah in the Quran, titled ‘Al-Baqurah’ gives a warning, which is repeated throughout the Quran, that it is not mere professing of one’s creed, but righteous conduct, that is true religion. Verses 44, 81 and 82 from this Surah make this absolutely clear.

Dr. Sharma also adverted to the contribution made to growth of secularism by Akbar who founded ‘Din-e-Ilahi’ and the support he was given by Abdul Rahim Khane Khana in addition to the secularism of Dara Shikoh. Impact of Muslim mysticism on Hinduism and contribution of Kabir to the Indian ethos has been lasting. Secular ideals led to formation of the Sikh faith and the gurus have made a lasting contribution to it. He said:

Guru Gobind Singh further magnified the secular ideal of the Sikh faith. The following lines composed by Guru Govind Singh come to mind.

1 Ismail Faruqui v. Union of India, (1994) 6 SCC 360 at P. 400
Mandir or Mosque, Puja or Namaz, Puran or Quran have no difference. All human beings are equal.

After adverting to the significant role of Mahatma Gandhi and Khan Abdul Gaffar Khan in recent times, Dr. Sharma concluded:

The Constitution of India specifically articulated the commitment of secularism on the basis of clear understanding of the desirable relationships between the Individual and Religion, between Religion and Religion, Religion and the State, and the State and the Individual.

B.P. Jeevan Reddy, J. in the same context in the decision stated thus¹:

While the citizens of this country are free to profess, practice and propagate such religion, faith or belief as they choose, so far as the State is concerned, i.e., from the point of view of the State, the religion, faith or belief of a person is immaterial. To it, all are equal and all are entitled to be treated equally. How is this equal treatment possible, if the State were to prefer or promote a particular religion, race or caste, which necessarily means a less favourable treatment of all other religions, races and castes. How are the constitutional promises of social justice, liberty of belief, faith or worship and equality of status and of opportunity to be attained unless the State eschews the religion, faith or belief of a person from its consideration altogether while dealing with him, his rights, his duties and his entitlements—secularism is thus more than a passive attitude of religious tolerance. It is a positive concept of equal

¹ (1994) 3 SCC 1 at P. 233
treatment of all religions. This attitude is described by some as one of neutrality towards religion or as one of benevolent neutrality. This may be a concept evolved by western liberal thought or it may be, as some say, an abiding faith with the Indian people at all points of time. That is not material. What is material is that it is a constitutional goal and a basic feature of the Constitution as affirmed in *Kesavananda Bharati* [(1973) 4 SCC 225 : 1973 Supp SCR 1] and *Indira Nehru Gandhi v. Raj Narain* [1975 Supp SCC 1 : (1976) 2 SCR 347]. Any step inconsistent with this constitutional policy is, in plain words, unconstitutional. This does not mean that the State has no say whatsoever in matters of religion. Laws can be made regulating the secular affairs of temples, mosques and other places of worships and maths. [See *S.P. Mittal v. Union of India* (1983) 1 SCC 51 : (1983) 1 SCR 729].

Ahmadi, J. while expressing agreement with the views of Sawant, Ramaswamy and Jeevan Reddy, JJ. Stated thus:

Notwithstanding the fact that the words 'Socialist' and 'Secular' were added in the Preamble of the Constitution in 1976 by the 42\textsuperscript{nd} Amendment, the concept of Secularism was very much embedded in our constitutional philosophy. The term 'Secular' has advisedly not been defined presumably because it is a very elastic term not capable of a precise definition and perhaps best left undefined. By this amendment what was implicit was made explicit.\(^1\)

It is clear from the constitutional scheme that it guarantees equality in the matter of religion to all individuals and groups irrespective of their faith emphasizing that there is no religion of the State itself. The Preamble of the Constitution read in particular with Articles 25 to 28 emphasizes this aspect and indicates that it is in this manner the concept of secularism embodied in the constitutional scheme as a creed adopted by the Indian people has to be understood while examining the constitutional validity of any legislation on the touchstone of the Constitution. The concept of secularism is one facet of the right to equality

\(^1\) 1994 3 SCC 1 at P. 77
woven as the central golden thread in the fabric depicting the pattern of the scheme in our Constitution.¹

The purpose of the law must be not to extinguish the groups which make the society but to devise political, social and legal means of preventing them from falling apart and so destroying the plural society of which they are members.

In a pluralist, secular polity law is perhaps the greatest integrating force. A cultivated respect for law and its institutions and symbols; a pride in the country’s heritage and achievements; faith that people live under the protection of an adequate legal system are indispensable for sustaining unity in pluralist diversity. Rawlsian pragmatism of ‘justice as fairness’ to serve as an ‘overlapping consensus’ and deep-seated agreements on fundamental questions of basic structure of society for deeper social unity is a political conception of justice rather than a comprehensive moral conception.

END NOTE:

The concept of secularism of which religious freedom is the foremost appears to visualize not only of the subject of God but also an understanding between man and man. Secularism in the Constitution is not anti-God and it is sometimes believed to be a stay in a free society. Matters which are purely religious are left personal to the individual and the secular part is taken charge by the State on grounds of public interest, order and general welfare. The State guarantee individual and corporate religious freedom and dealt with an individual as citizen irrespective of his faith and religious belief and does not promote any particular religion nor prefers one against another. The concept of the secular State is, therefore, essential for successful working of the democratic form of Government. There can be no democracy if anti-secular forces are allowed to work dividing followers of different religious faith flying in at each other’s throats. The secular Government should negate the attempt and bring order in the society. Religion in the positive sense, is an active instrument to allow the citizen full development of his person, not merely in the physical and material but in the non-material and non-secular life.

¹ Ismail Faruqui v. Union of India (1994) 6 SCC 360 at P. 403